BILL NO. S-87-05-16 (as amended) (as amended)

SPECIAL ORDINANCE NO. S-150-87

AN ORDINANCE approving an Interlocal Agreement to be entered into by and between the City of Fort Wayne, Indiana and Allen County Indiana, as to the establishment of "The Headwaters Park Commission".

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the attached agreement, to be entered into by and between the City of Fort Wayne, Indiana and Allen County Indiana, made a part hereof as Exhibit "A" and establishing The Headwaters Park Commission, is hereby approved and ratified in all respects in conformance with Indiana Code 36-1-7, et seq.

SECTION 2. That the Mayor of the City of Fort Wayne, Indiana, is hereby empowered and authorized to execute said Agreement on behalf of the City.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Janet Grote Bradbury
Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Amendment made on Page 4 "Exhibit A"

Amendment made on Page 3 "Exhibit A"

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____.M.,E.S

DATE: _____

_____
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Eisbart, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	7	1		1	
BRADBURY				✓	
BURNS	✓				
EISBART	✓				
GiaQUINTA		✓			
HENRY	✓				
REDD	✓				
SCHMIDT	✓				
STIER	✓				
TALARICO	✓				

DATE: 6-9-87

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (GENERAL) (SPECIAL) (~~ZONING MAP~~) ORDINANCE (~~RESOLUTION~~) NO. S-150-87 on the 9th day of June, 1987,

ATTEST: (SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day of June, 1987, at the hour of 11:30 o'clock A.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 18th day of June, 1987, at the hour of 11:00 o'clock A.M.,E.S.T.

WIN MOSES, JR., MAYOR

EXHIBIT "A"

AGREEMENT ESTABLISHING THE HEADWATERS PARK COMMISSION

THIS AGREEMENT is executed under the provision of Indiana Code 36-1-7 between the following parties:

Allen County, Indiana (County)
The City of Fort Wayne, Indiana (City)

Section 1. Subject Matter of the Agreement and Its Purpose. This Agreement concerns the rehabilitation and development of the flood plain area in and adjacent to the area bounded on the south by Superior Street, on the north by Elizabeth Street, on the west by Harrison Street and on the east by Spy Run Avenue (Park Area) but excluding Lawton Park. The purpose of this Agreement are:

(1) to clear the Park Area of its present improvements consistent with the Park Plan

(2) to construct and operate a park in the Park Area with such improvements as are minimally affected by floodwater;

(3) to reduce flooding of the Park Area by the best and most practical methods in the City and County;

(4) to provide an environment adjacent to the Park Area which is conducive to compatible business or residential development.

(5) to cooperate with, but not to control or limit the powers and efforts of the County or City or any other municipal corporation established by Indiana law to carry out one or more of these purposes.

Section 2. Establishment of the Headwaters Park Commission and its Board. The purposes of this Agreement shall be carried out by a governmental entity to be called the Headwaters Park Commission (Commission) which is hereby established. The Commission shall constitute a body politic and corporate, as an independent instrumentality, exercising essential public functions for the term provided in this Agreement.

The fiscal, legislative and governing body of the Commission shall consist of a twelve (12) member board (Board) appointed for four year staggered terms as follows:

Seven (7) members shall be appointed by the Mayor of the City, at least two of whom shall be the president and one other member of the Board of Park Commissioners, and at least one of whom shall be a member of the Alliance Board of Directors. Not more than four (4) shall be of the same political party.

Four (4) members shall be appointed by the Board of Commissioners of the County, at least one of whom shall be a member of the Alliance Board of Directors and one of whom shall be a member of the Allen County Parks and Recreation Board, not more than two (2) of whom shall be of the same political party.

One (1) member shall be appointed by the Board of the Fort Wayne Park Foundation from its membership.

One (1) member of the Common Council of the City of Fort Wayne, select4ed by a majority of the said Council.

To provide for staggered terms, three of the first four Board members appointed by the Mayor, one of the first Board members appointed by the Board of Commissioners, and the member appointed by the Fort Wayne Park Foundation shall be for two year term with the balance of such members being appointed for four year terms. Thereafter, all members of the Board shall be appointed for four year terms. The member of the Common Council shall be selected by said Council annually to serve for a period of one (1) year.

Members may be reappointed at the end of their respective terms by the person or board making the original appointment. Vacancies shall be filled as soon as reasonably possible by the authority appointing the Board member position. The Board shall meet annually within the first fifteen days of July of each year and thereafter when necessary, to organize or reorganize by electing or appointing its officers.

The officers shall consist of a president, a vice-president, a treasurer and a secretary to be elected by the Board from its membership.

The Board shall from time to time adopt rules and regulations governing its meetings and operations, necessary to its duties and consistent with Indiana law.

The president shall be the chief executive officer of the Board, and the Commission Members shall serve without compensation.

Section 3. Duties of the Commission. In carrying out its purposes the Commission shall have the duties set out in this section:

(1) revise the boundaries of the Park Area with the approval of Executive of the City, its Mayor;

(2) remove all the improvements within the Park Area (subject to flood damage) consistent with its development as a park;

(3) suggest other flood control measures which will promote the purposes of the Commission;

(4) determine the layout of the Park Area, including all improvements;

(5) provide inducements to provide capital to invest in the area adjacent to the Park Area;

Section 4. Powers of the Commission. In carrying out the purposes of this Agreement, the Board acting on behalf of the Commission is granted all the powers necessary to carry out and effect the public and corporate purposes of the

Commission. These include, but are not limited to the following:

(1) adopt, amend and repeal bylaws, rules and regulations consistent with this Agreement regulating its affairs and necessary to effect the powers created by this section in carrying out the purposes of the Commission as set out in this Agreement;

(2) sue and be sued in its own name;

(3) maintain an office or offices within the County;

(4) employ, dismiss and establish the compensation for staff determined by the Board to be essential for its operation, and contract for the services of professionals, advisors or consultants as it deems necessary or desirable;

(5) inasmuch as it is contemplated that all lands and developments thereon eventually shall revert to the Board of Park Commissioners of the City in accordance with Section 7 of this Agreement, therefore to facilitate that transfer, and in order to provide efficient, non-repetitive, and non-competitive governmental arrangements the Commission will contract with the Board of Park Commissioners for management, administrative and

maintenance services upon substantial completion of a portion of the project, insofar as said Board can provide said services, in terms which are consistent with sound and efficient administrative practice, and which do not compromise the Board of Park Commissioners' authority over and responsibility for the functioning of the Park Department.This shall not prevent the Commission from contracting with other parties to perform other work.

(6) exercise the power of eminent domain in accordance with Indiana law, except the power to acquire any property or interest therein owned by any governmental subdivision or entity;

(7) use the relocation assistance under the terms of IC 8-13-18.5 where applicable and appropriate, or where required by applicable state or federal law.

(8) purchase or lease as lessee with option to purchase, exchange, or receive by donation any real or personal property or any interest therein.

(9) lease or sell any real or personal property or interest therein, except that any sale or transfer shall be made solely to the City unless it

otherwise consents by its Executive and by ordinance.

(10) procure insurance against any loss in connection with its liability and damage to its property and other assets and procure guarantees from any public or private entities;

(11) receive and expend money from the County, City and state agency or the federal government, by gift, grant or loan and to execute agreements concerning the expenditure and repayment thereof under IC 36-1-7 or otherwise;

(12) receive or accept from any private person or entity grants or contributions of money, property, labor or other things of value as its absolute property, with or without limitations, or as trustee.

Nothing in this Agreement or in this numbered paragraphs shall limit the power of City or the County or any department thereof to any power over any part of the Park Area which it now owns or to any power which it has under Indiana law.

Section 5. Duties of the Treasurer and Control of Finance. The treasurer shall be the fiscal officer and official custodian of all funds of the Commission and shall be responsible for the proper safeguarding and accounting for all the funds. He shall be bonded in an amount determined by the Board.

(1) The treasurer shall:

(a) issue a receipt for any money coming into the treasurer's hand;

(b) deposit such money in accordance with the laws governing the deposit of public funds; and

(c) issue all warrants, checks or negotiable orders of withdrawal (herein referred to as "warrants") in payment of expenses lawfully incurred on behalf of the Commission, but, except as otherwise provided by law, issue the warrants only after proper allowance or approval by the Board. No verification, other than a properly itemized invoice shall be required for any claim of one hundred dollars ($100.00) or less; and any claim over this amount shall be sufficient as to form if the bill or statement has printed or stamped on its face a verification of the bill or statement in language approved by the State Board of Accounts.

(1) Invest any available funds under guidelines established by the Board in accordance with applicable Indiana law.

(2) The funds of the Commission:

(a) shall not be commingled with the funds of any other entity, and

(b) shall be expended only after appropriation under applicable Indiana law to the extent required by that law or by regulation or ruling of its State Board of Accounts or the State Board of Tax Commissioners.

Section 6. Planning Coordination with City Departments All plans will be coordinated with plans of the Community Development and Planning Department and of the Park Department. Where any zoning ordinance, comprehensive plan or part thereof, relocation of streets, thoroughfares or other public works, which are part of the plan for the Park Area must be carried out through proceedings under the City Plan Commission pursuant to IC 36-7-4-4, et.seq., 500 et seq. or 600 et seq., or any other law, the City Plan Commission shall.

(1) cooperate in the preparation of the plan by furnishing all available information and aid, and

(2) cooperate by processing the plan to any necessary hearing before the Plan Commission required by Indiana law.

Section 7. Holding and Disposition of Property, Including Termination. Real or personal property shall be

held by the Commission in its corporate name. It shall be disposed of in the manner permitted by Indiana law for a political subdivision, including, but not limited to, a sale or transfer to another governmental entity, subject to approval by the Executive of the City or by ordinance.

Upon termination of the Agreement or upon substantial completion of park development, whichever comes first, all real and non-monetary personal property shall revert to the Board of Park Commissioners of the City. Any distinct and autonomous portions of the park substantially completed before termination of the agreement will revert to the Board of Park Commissioners of the City at the time of substantial completion. Money received and held by the Commission shall become a part of the City funds to be expended solely on the development and operation of the Park Area, or in the event it has been obligated by the Commission before its termination, to the payment of that obligation.

Section 8. Termination. This Agreement shall extend for ten (10) years, but may sooner terminate if the Board with the agreement of the parties to this Agreement declare that its purposes have been achieved or cannot be further achieved. Its term shall not extend beyond 10 years, unless development of the park remains substantially incomplete and the parties to this agreement, agree that extension of the

Agreement is necessary. If one portion of the park remains substantially incomplete, the Agreement may be extended for that portion only, and all other properties shall revert to the Board of Park Commissioners of the City in accordance with Section 7.

Section 9. Authorization of the Agreement. This Agreement has been approved for execution by the City and County by resolution of the legislative body of each.

Executed _____, 1987.

COUNTY OF ALLEN

CITY OF FORT WAYNE

By: _____ _____

By: _____

By: _____

Read the first time in full and on motion by Bradbury seconded by Eisbart, and duly adopted, read the second time by title and referred to the Committee Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____.M.,E.S.T.

DATE: 5-12-87

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	7	1		1	
BRADBURY	✓				
BURNS		✓			
EISBART	✓				
GiaQUINTA	✓				
HENRY				✓	
REDD	✓				
SCHMIDT	✓				
STIER	✓				
TALARICO	✓				

DATE: 5-26-87

Sandra E Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. _____ on the _____ day of _____, 19____,

ATTEST: (SEAL)

_____
SANDRA E. KENNEDY, CITY CLERK

_____
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____.M.,E.S.T.

_____
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____.M.,E.S.T.

_____
WIN MOSES, JR., MAYOR

Four (4) members shall be appointed by the Board of Commissioners of the County, at least one of whom shall be a member of the Alliance Board of Directors and one of whom shall be a member of the Allen County Parks and Recreation Board, not more than two (2) of whom shall be of the same political party.

One (1) member shall be appointed by the Board of the Fort Wayne Park Foundation from its membership.

To provide for staggered terms, three of the first four Board members appointed by the Mayor, one of the first Board members appointed by the Board of Commissioners, and the member appointed by the Fort Wayne Park Foundation shall be for two year terms with the balance of such members being appointed for four year terms. Thereafter, all members of the Board shall be appointed for four year terms.

Members may be reappointed at the end of their respective terms by the person or board making the original appointment. Vacancies shall be filled as soon as reasonably possible by the authority appointing the Board member position. The Board shall meet annually within the first fifteen days of July of each year and thereafter when necessary, to organize or reorganize by electing or appointing its officers.

The officers shall consist of a president, a vice-president, a treasurer and a secretary to be elected by the Board from its membership.

The Board shall from time to time adopt rules and regulations governing its meetings and operations, necessary to its duties and consistent with Indiana law.

The president shall be the chief executive officer of the Board, and the commission members shall serve without compensation.

Section 3. Duties of the Commission. In carrying out its purposes the Commission shall have the duties set out in this section:

(1) revise the boundaries of the Park Area with the approval of Executive of the City, its Mayor; ~~Common Council of the City of Fort Wayne.~~ and the

(2) remove all the improvements within the Park Area (subject to flood damage) consistent with its development as a park;

(3) suggest other flood control measures which will promote the purposes of the Commission;

(4) determine the layout of the Park Area, including all improvements;

(5) provide inducements to provide capital to invest in the area ~~adjacent~~ to the Park Area; ~~, subject to~~ Council approval

Section 4. Powers of the Commission. In carrying out the purposes of this Agreement, the Board acting on behalf of the Commission is granted all the powers necessary to carry out and effect the public and corporate purposes of the

One (1) member of the Common Council of the City of Fort Wayne, selected by a majority of the ~~the number~~ said Council

~~terms~~, ~~other than~~ the member of the Common Council ~~who~~ shall be selected by said Council annually to serve ~~for~~ a period of one (1) year.

SUMMARY

I move reconsideration of bill S-87-05-16 at the next regular meeting of the Ft. Wayne Common Council.

D. Schmid

5-26-87

MEMORANDUM

TO: MEMBERS OF CITY COUNCIL

FR: CHRISTOPHER KLOSE
ADMINISTRATIVE ASSISTANT TO THE MAYOR

DA: MAY 12, 1987

RE: HEADWATERS PARK COMMISSION ORDINANCE

Please find attached a summary of the Agreement Establishing the Headwaters Park Commission. The Agreement itself will be in your packets for next week, in ordinance form.

The Agreement is the result of negotiations and discussions with most, if not all, of the groups with identified interests in the development of the Headwaters Park. The formation of the Commission is the next step in the development process. Once the Commission is established, it can begin to collect private donations and lobby at the legislature for state funds. The establishment of the Commission is a virtual necessity before funds can be raised.

As the summary points out, the Agreement establishes a 12 member commission with the Mayor making seven appointments, the County Commissioners countrolling four, and the Park Foundation Board selecting one of its own members to serve. The Commission will develop the park one section at a time and as each section is completed, it will be turned over to the Fort Wayne Parks Department for administration and maintenance.

One of the first actions the Commission will take is the hiring of an executive director and staff to do the leg work of fund raising, land acquisition, and lobbying the state legislature. Since the Headwaters Park Alliance would like to ask the legislature for funds in the 1988 session, it is important to move ahead quickly with the establishment of the Commission and the staffing so that everything is ready to go by the end of the year.

I will try to contact you by the end of the week. If you have any questions about the Agreement, please do not hesitate to call me at 427-1111.

SUMMARY OF THE AGREEMENT ESTABLISHING

THE HEADWATERS PARK COMMISSION

Below is a summary of the Agreement Establishing the Headwaters Park Commission. The 10 year agreement must be approved by the Allen County Commissioners and Fort Wayne City Council.

SECTION 1 -- PURPOSE OF THE COMMISSION

- Establishes park boundaries as Superior Street (South), Elizabeth Street (North), Harrison Street (East), and Spy Run Avenue (East) excluding Lawton Park.
- States purpose of the Agreement is to establish a park which is minimally affected by floodwaters, and to provide an environment near the park which will be suitable for business and residential development.

SECTION 2 -- THE COMMISSION

- Establishes a 12 member Headwaters Park Commission.
- 7 members appointed by Mayor, 4 by County Commissioners, and 1 by Fort Wayne Park Foundation.
- Mayor's appointees must include the Park Board President, one other member of the Park Board, and one member of the Alliance Board of Directors. No more than 4 may be of the same political party.
- County Commission's appointments must include one member of the Alliance Board and one member of the Allen County Parks and Recreation Board with no more than two being of the same political party.
- Commission members will be appointed to staggered, four-year terms.
- Commission will elect a President, Vice-President, Treasurer, and Secretary from its membership.

SECTION 3 -- DUTIES OF THE COMMISSION

The Commission may:

- Revise park boundaries subject to approval by the Mayor.
- Remove improvements subject to flood damage.
- Suggest other flood control measures.
- Determine layout of the park.
- Provide inducements to capital investment in the park.

SECTION 4 -- POWERS OF THE COMMISSION

The Commission is granted a variety of powers including staffing; taking legal action; acquiring land through eminent domain, lease or purchase; receiving grants; and contracting with Fort Wayne Park Board for management.

SECTION 5 -- DUTIES OF THE TREASURER

The Agreement establishes specific duties of the Treasurer including issuing receipts, paying bills, and investing funds. The Agreement stipulates that the funds of the Headwaters Park Commission may not be comingled with funds of any other entity.

SECTION 6 -- PLANNING WITH CITY DEPARTMENTS

Provides that all plans for the park will be coordinated with the City's Park Department and Community Development and Planning Department.

SECTION 7 -- HOLDING OF PROPERTY

- Specifies that property making up the park will be held by the Commission in its corporate name.
- Specifies that upon termination of the Agreement or substantial completion of the project, all

real and non-monetary personal property shall revert to the City's Park Board.

- 0 Specifies that money received and held by the Commission shall become part of City funds but be expended solely on the park.

SECTION 8 -- TERMINATION

- 0 Agreement will run for 10 years.
- 0 Agreement can be extended if both parties agree.
- 0 If one portion remains incomplete at end of 10 years, agreement will be extended to that portion only.

SECTION 9 -- AUTHORIZATION

The Fort Wayne City Council and the Allen County Commissioners must approve the Agreement.

Held - 6-9-87

BILL NO. S-87-05-16

as amended (p. 4)

REPORT OF THE COMMITTEE ON ~~REGULATIONS~~ Committee of the Whole

WE, YOUR COMMITTEE ON ~~REGULATIONS~~ Committee of the Whole TO WHOM WAS REFERRED AN (ORDINANCE) (~~RESOLUTION~~) approving an Interlocal Agreement to be entered into by and between the City of Fort Wayne, Indiana and Allen County Indiana, as to the establishment of "The Headwaters Park Commission"

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~) Do Pass

YES		NO
Mark C. LaSalle Janet G. Bradbury	JANET G. BRADBURY CHAIRPERSON	
	CHARLES B. REDD VICE CHAIRMAN	
Thomas C. Henry	THOMAS C. HENRY	
	PAUL M. BURNS	
	BEN A. EISBART	

CONCURRED IN Samuel J. Talarico 6-9-87.

SANDRA E. KENNEDY
CITY CLERK